

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

282L0152

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1127** - 02/11/2005

Introduced by: Representatives Hackl and Sigdestad and Senators Koskan and Peterson (Jim)

1 FOR AN ACT ENTITLED, An Act to authorize the provision of special education and related
2 services to certain alternative instruction students.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-37-1.3 be amended to read as follows:

5 13-37-1.3. Each school district shall provide all of its resident children in need of special
6 education or special education and related services, as defined in § 13-37-1, with a free
7 appropriate public education, as defined in rules promulgated pursuant to chapter 1-26 by the
8 South Dakota Board of Education. However, no child with a disability who is receiving
9 alternative instruction pursuant to § 13-27-3 has an individual right to receive any of the special
10 education or special education and related services that the child would receive if enrolled in
11 a public school. Upon request, a school board may allow a resident child in need of special
12 education or special education and related services who is being provided with alternative
13 instruction pursuant to § 13-27-3 to also enroll in a public school within the district to receive
14 special education or special education and related services. If a school board denies such a
15 request, the denying school board shall provide the parents or legal guardian of the child and the



1 secretary of the Department of Education with the reasons for the denial in writing. The
2 secretary may reverse the decision of the denying school board and require the school board to
3 allow the resident child to enroll without recourse of appeal. A parent or legal guardian is not
4 afforded the due process protections in ARSD Article 24:05 when special education or special
5 education and related services by the public school are denied for a child receiving alternative
6 instruction.